



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: ENF-L

Sent via regular and electronic mail

FEB 04 2015

Ms. Elizabeth H. Temkin
Counsel for M2Green LLC
Temkin Wielga & Hardt LLP
1900 Wazee Street, Suite 303
Denver, CO 80202

Re: Smurfit Stone Mill Site, Missoula, Montana
Response to December 19, 2014 Submission Regarding RI/FS

Dear Ms. Temkin:

This letter notifies you that the U.S. Environmental Protection Agency (EPA) has determined that the December 19, 2014, letter and plan submitted on behalf of M2Green, LLC (Submission) is not a good faith offer as defined by the EPA's September 2, 2014 Special Notice Letter (Special Notice Letter) regarding the Smurfit Stone Mill Site (Site) in Missoula, Montana. Accordingly, these negotiations are no longer bound by the procedures outlined in Section 122(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9622(e), specifically the moratorium prohibiting the EPA from commencing action for a remedial investigation/feasibility study (RI/FS).

The Special Notice Letter stated that a good faith offer must contain, among other elements: a statement of willingness by the potentially responsible parties (PRPs) to conduct or finance the RI/FS consistent with the EPA's Statement of Work (SOW), a paragraph by paragraph response to the EPA's SOW and draft Administrative Order on Consent (AOC), a statement of willingness by the PRPs to reimburse the EPA for costs incurred in overseeing the PRPs conduct of the RI/FS, and a demonstration of the PRP's capability to finance the RI/FS.

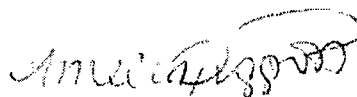
The Submission lacked a statement of willingness by the PRPs to conduct or finance an RI/FS consistent with the EPA's draft AOC and SOW. It lacked a paragraph by paragraph response to the draft AOC and SOW. It did not include a demonstration of financial capability to do work or statement of willingness to reimburse the EPA for oversight costs.

The EPA has documented releases of hazardous substances at the Site and has determined an RI/FS is necessary to study the nature and extent of contamination and to evaluate potential cleanup options. The Submission proposed that large portions of the Site be eliminated from evaluation under CERCLA and be dealt with through institutional controls. The EPA cannot agree to predetermine a remedy based upon minimal sampling taken without regulatory oversight. As such, the Submission is unacceptable.

Despite M2Green's failure to submit a good faith offer, the EPA carefully reviewed the Submission in an effort to identify any common ground that could be incorporated into an RI/FS. The EPA is aware of M2Green's desire to redevelop portions of the Site, and is willing to discuss how that can be done expeditiously within the remedial framework of CERCLA. We are amenable to organizing the Site into two operable units (OUs). OU1 would be comprised of the agriculture lands and OU2 would be comprised of the former industrial area, including the settling ponds. The remedial investigation would be tailored for each OU and would take into account data submitted by M2Green. The EPA is also willing to entertain attaching a pre-approved work plan for the RI/FS to the AOC, rather than the SOW. This is conditioned upon the submission of an acceptable work plan by M2 Green within the next thirty days along with a paragraph by paragraph response to the EPA's draft AOC, a statement of willingness to reimburse the EPA for costs incurred in overseeing M2Green's conduct of the RI/FS, and a demonstration of M2Green's capability to finance the RI/FS.

Please contact me at 303-312-6410 if you have any questions regarding this proposal. If we do not hear from you within the next seven days, the EPA will assume M2 Green is not interested in further discussions and will pursue other options available under CERCLA. I look forward to hearing from you.

Sincerely,



Amelia Piggott
Enforcement Attorney
U.S. EPA Region 8

cc: Ryan Dahl, International Paper (electronic mail only)
Nina Butler, Rock Tenn (electronic mail only)
Becky Sommerville, Montana Rail Link (electronic mail only)
Brooke Kuhl, BNSF (electronic mail only)
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